

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERTO CHAIDEZ,

No. C 16-6017 WHA (PR)

Petitioner,

**ORDER OF DISMISSAL**

v.

M.D. STAINER; KELLY  
HARRINGTON; J. LEWIS; M.C.  
SAYRE; DUCART; M. MCLEAN;  
MCDONALD,


Respondent.

Petitioner, a California prisoner proceeding pro se, filed this pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254 challenging the conditions of his confinement at Pelican Bay State Prison. Pursuant to *Nettles v. Grounds*, No. 12-16935, slip op. at 23 (9th Cir. July 26, 2016) (en banc) (quoting *Preiser*, 411 U.S. at 487), petitioner was advised of the consequences of proceeding with this case as a civil rights action and instructed to indicate whether he wished to withdraw the petition without prejudice to his filing his claims in a new action a civil rights complaint; amend the petition to state a claim cognizable under habeas; or have the petition construed as a civil rights complaint. Petitioner has indicated that he wishes to withdraw the petition. Accordingly, the petition is **Dismissed** without prejudice to filing his claims in a new civil rights action. A certificate of appealability will not issue because jurists of reason would not disagree with this conclusion.

The Clerk shall enter judgment and close the file.

**IT IS SO ORDERED.**

Dated: February 13, 2017.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE